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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,324	11/15/2001	Mark Frigon		5004
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Mark Frigon 2140 Vallejo #4 San Francisco, CA 94123				
			EXAMINER	
			BETTT, JACOB F	
			ART UNIT	PAPER NUMBER
			2169	
			NOTIFICATION DATE	DELIVERY MODE
			11/29/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

frigon@live.com

Office Action Summary

Application No.

09/991,324

Applicant(s)

FRIGON, MARK

Examiner

Jacob F. B  tit

Art Unit

2169

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C.   133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/31/2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 118-127 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 118-127 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C.   119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C.   119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Remarks

1. In response to communications filed on 31 August 2010, claims 118 and 120 have been amended and claims 123-127 are added per the applicant's request. Claims 118-127 are presently pending in the application.
2. Claim 123 is a new claim that includes markings to show changes. Newly added claims should not include markings to show changes. See 37 CFR §1.121.
3. In view of the use of the newly cited references, this action is being made Non-Final. However, Examiner has responded Applicant's arguments with regards to "Argument 4" to the extent that they apply to the newly cited reference in the Response to Arguments section below.
4. Examiner acknowledges Applicant's request that that Examiner write allowable claims in accordance to MPEP 707.07(j). However, the practice of suggestion one or more claims for a *pro se* application can only occur when it becomes apparent to the examiner that there is patentable subject matter disclosed in the application. Examiner has looked at the subject matter disclosed in the application and believes the claims appear to cover what Applicant feels are the inventive aspects of his invention. Further, Examiner does not see embodiments in the specification that would make the invention non-obvious over the prior art.

If applicant disagrees with Examiner's rejections set forth below, it is suggested that Applicant appeal the rejections to the Board of Patent Appeals and Interferences. Applicant does not need for the case to be Finally Rejected to appeal and can appeal when any of the claims has been twice rejected. See 37 CFR §41.31(a).

However, it is noted that Applicant is not required to appeal the claims, and since this rejection is Non-Final, Examiner will consider any Amendments filed in accordance with 37 CFR §1.121.

Applicant is also reminded of the Interview process disclosed in MPEP 713. If the applicant feels that there are embodiments of the invention disclosed in the specification not currently claimed that could get around the cited prior art, Examiner suggests using this process so that proposed amendments can be reviewed to insure that they do overcome the prior art and are in compliance with 37 CFR §1.121.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 118-127 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skidgel et al. (U.S. patent application publication No. 2002/0093678 A1 in view of Shneiderman (U.S. patent No. 7,010,751 B2) and Hamada et al. (U.S. patent No. 6,353,452 B1).

As to claim 118, Skidgel et al. teaches in a multi-user computer network, a method for obtaining and displaying information relating to existence of at least one user of a computer network in an image comprising:

a) assigning a unique user identification to users of a computer network (see paragraphs 0026-27);

b) obtaining image data from at least one user of said computer network (see paragraph 0029);

c) assigning a unique image identification to said image data (see paragraphs 0028-29);

d) presenting a client interface on a first computer configured for said at least one user of said computer network to provide identifying information (see figure 4B1, reference number 442B);

e) obtaining said identifying information from said at least one providing user (see paragraphs 0033 and 0038) and;

f) storing said identifying information on a second computer where said identifying information is searchable by a plurality of searching users (see paragraph 0045);

g) presenting a search interface to at least one searching user of said plurality of searching users (see figure 4E1);

i) receiving a request for at least one image within said object data from said at least one searching user, where said at least one image comprises at least one result object (see figures 0046-47);

j) performing a query that returns said at least one result object found in said image data obtaining data associated with said at least one result object from said second computer in response to said request, said data represents said identifying information provided by said at least one user for said at least one result object (see paragraphs 0048-49); and,

k) presenting said data associated with said at least one result object to said at least one searching user that initiated said request (see paragraphs 0049-51).

Because Skidgel et al. teaches a list of people keywords that are created by the user of the system rather than generated from the users table, Skidgel et al. does not distinctly disclose wherein said identifying information comprises a user identifier of other users of said computer network in said image data and said data further comprising identification information about said at least one user of said computer network.

However, Shneiderman teaches wherein said identifying information comprises a user identifier of other users of said computer network in said image data (see column 9, line 29 through column 10, line 14) and Hamada et al. teaches pulling information from a preexisting table such as a user's table rather than populating the list by the user (see column 7, lines 26-46). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Skidgel et al. to include the teachings of Shneiderman and <x> because these teachings would recall data such as the keyword names of Skidgel et al. with corresponding identifying information of Shneiderman from preexisting sources rather than requiring individual users to fill this data in themselves.

As to claim 119, Skidgel et al. as modified, does not distinctly disclose wherein said identifying information further comprises location information that identifies coordinates of said at least one result object.

However, Shneiderman teaches this, see column 8, lines 8-12 and see column 12, lines 41-50. Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to have modified Skidgel et al. to include the teachings of Shneiderman because these teachings would make it easier for a user of the system to identify which of the people in the image the user is.

As to claim 120, Skidgel et al. as modified, teaches wherein said user identifier in said identification information obtained by said second computer from a user of said computer network is selected from a relationships between users of said computer network (see Skidgel et al., paragraphs 0033 and 0038; see Shneiderman, column 9, line 64 through column 10, line 7; and see Hamada et al., column 7, lines 26-46).

As to claim 121, Skidgel et al. as modified, teaches wherein presenting said identifying information further displays identifying information at said coordinates of said at least one result object in said image data (see Shneiderman, column 8, lines 8-12 and see column 12, lines 41-50).

As to claim 122, Skidgel et al. as modified, does not distinctly disclose wherein upon obtaining said identifying information from said at least one providing user, an email is sent to any email address associated with those users identifiers in said identifying information of said computer network, said email notifying users of said computer network that their user identifier had been associated with said image data.

However, Shneiderman teaches this, see column 9, line 64 through column 10, line 8. Therefore, it would have been obvious to one having ordinary skill in the art at the time the

invention was made to have modified Skidgel et al. to include the teachings of Shneiderman because these teachings would allow people knowledge and access to pictures that are submitted to the system.

As to claim 123, Skidgel et al. teaches in a multi-user computer network, a method for obtaining and displaying information relating to existence of a plurality of users of said computer network in image data stored on said computer network comprising:

a) assigning unique user identifiers to a plurality users of a computer network (see paragraphs 0026-27);

b) obtaining descriptive user information about at least one of said users of a computer network (see paragraphs 0026-27);

c) obtaining image data from at least one user of said computer network (see paragraph 0029);

d) assigning a unique image identifier to said image data (see paragraph 0029);

e) presenting a client interface on a first computer configured for said plurality of users of computer network to collaboratively provide identifying information about which other users of said network appear in said image data (see figure 4B1 reference number 442B);

f) obtaining said identifying information from said client interface wherein said identifying information comprises said descriptive user information associated with said users of a computer network (see paragraph 0033 and paragraph 0038);

h) determining from said identifying information which unique image identifier to be associated with said user identifier (see paragraphs 0033 and 0038);

i) storing the relationship between said user identifier and said image identifier on a second computer whereby said identifying information is searchable by a plurality of users of said network (see paragraphs 0039-40);

j) presenting a search client interface to at least one searching user of said plurality of network users, said search interface allowing said searching user to select from said descriptive information from which to retrieve identifying information stored on said network (see figure 4E1);

k) obtaining said descriptive information from said search client interface (see paragraph 0046-47);

l) determining which unique user identifier is associated with said descriptive information obtained from said search client interface (see paragraph 0046-47);

m) performing a query that returns image data and descriptive user information associated with said unique user identifier obtained from said search client (see paragraph 0047-48);

n) presenting said image data and said descriptive user information to said at least one searching user that initiated said request (see paragraph 0049-51).

Because Skidgel et al. teaches a list of people keywords that are created by the user of the system rather than generated from the users table, Skidgel et al. does not distinctly disclose where said descriptive information is associated with one of said unique user identifiers; where said identifying information comprises said descriptive user information associated with said users of a computer network; determining from said descriptive information which unique user identifier to be associated with said identifying information.

However, Shneiderman teaches where said descriptive information is associated with one of said unique user identifiers; where said identifying information comprises said descriptive user information associated with said users of a computer network; determining from said descriptive information which unique user identifier to be associated with said identifying information (see column 9, line 29 through column 10, line 14) and Hamada et al. teaches pulling information from a preexisting table such as a user's table rather than populating the list by the user (see column 7, lines 26-46). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Skidgel et al. to include the teachings of Shneiderman and Hamada et al. because these teachings would recall data such as the keyword names of Skidgel et al. with corresponding identifying information of Shneiderman from preexisting sources rather than requiring individual users to fill this data in themselves.

As to claim 124, Skidgel et al. as modified, does not distinctly disclose wherein said identifying information further comprises location information describing where within said image data said users of said network appear.

However, Shneiderman teaches this, see column 8, lines 8-12 and see column 12, lines 41-50. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Skidgel et al. to include the teachings of Shneiderman because these teachings would make it easier for a user of the system to identify which of the people in the image the user is.

As to claim 125, Skidgel et al. as modified, teaches wherein said user identifier of said descriptive user information in said identification information is selected from a list of contact relationships between users of said computer network (see Skidgel et al., paragraphs 0033 and 0038; see Shneiderman, column 9, line 64 through column 10, line 7; and see Hamada et al., column 7, lines 26-46).

As to claim 126, Skidgel et al. as modified, teaches wherein said presenting said image data further displays descriptive user information about network user associated with said image data, where said descriptive user information is displayed in relation to said location information (see Shneiderman, column 8, lines 8-12 and see column 12, lines 41-50).

As to claim 127, Skidgel et al. as modified, does not distinctly disclose wherein upon obtaining said identifying information from said at least one user of said computer network, an email is sent to an email address obtained in said descriptive user information associated with those users identifiers in said identifying information of said computer network, whereby said email notifies users of said computer network that their user identifier had been associated with said image data.

However, Shneiderman teaches this, see column 9, line 64 through column 10, line 8. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Skidgel et al. to include the teachings of Shneiderman because these teachings would allow people knowledge and access to pictures that are submitted

to the system.

Response to Arguments

7. Applicant's arguments with respect to claims have been considered but are moot in view of the new grounds of rejection.

Applicant's arguments presented under section heading listed as Arguments 1-3 do not apply to the newly recited references and therefore these arguments are moot.

In response to the applicant's arguments that with regard to Argument 4, the arguments have been considered, but are not deemed persuasive. Applicant in this section argues the Commercial Success of other companies as evidence of non-obviousness. Applicant goes on to indicate that the technology of "tagging" photos is the novel feature that was non-obvious in the prior art. However, Skidgel et al. and Shneiderman clearly teaches this feature. Further, Shneiderman teaches associating with "tags" information other than just the user's name such as email address which uniquely identifies a user.

In order for Applicant to properly argue that commercial success or long-felt need apply, applicant must link to the commercial success or long-felt need to a claimed feature that distinguishes over the prior art. See *Asyst Techs., Inc. v Emtrack, Inc.*, 544 F.3d 1310 (Fed. Cir. 2008). Applicant's Exhibits all seem to link the feature of being able to label individuals in the picture by name. Both Skidgel et al. and Shneiderman disclose this feature and therefore, this cannot be a non-obvious feature that is overcome by testaments of commercial success.

Further, it is noted that a combination of known elements would have been *prima facie* obvious if an ordinary skilled artisan would have recognized an apparent reason to combine

those elements and would have known how to do so. See *Ecolab, Inc. v. FMC Corp.*, 569 F.3d 1335 (Fed. Cir. 2009)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob F. Bétit whose telephone number is (571)272-4075. The examiner can normally be reached on Monday through Friday 9:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on (571) 272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Jacob F Bétit/
Primary Examiner, Art Unit 2169

jfb
8 Nov 2010